THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19791 OF 2005

DATED:8.9.2005

Between:

Vemuri Lakshmi Nageswara Rao

S/o.Late V.Venkata Ratnam,

Partner, Brindavan Talkies,

Machilipatnam and another

…Petitioners

And

The State of Andhra Pradesh

Rep. by its Secretary, Revenue Department,

Secretariat, Hyderabad and others

…Respondents

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ORDER:

The petitioners are residents of Machilipatnam. They own properties on the road from Navakala centre to Nagapothu Rao centre. Third respondent proposed to widen the said road. In that connection, second respondent convened a meeting of officials of the municipality and the land owners on 8.7.2005. The petitioners attended the meeting. They alleged that in the said meeting the officials opined that the compensation for the land affected by the road widening would be paid only when the road is widened to 100 feet and if road is widened to 90 feet compensation would paid only to buildings. It is also alleged that the local M.L.A obtained consent

letters from the people having properties on the road in a coercive manner. Apprehending highhanded action, present writ petition is filed seeking a declaration that the action of the respondents in proposing to road widening without any plan or approval for land acquisition from the Government is illegal and arbitrary.

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent Municipality.

Sections 172 and 174 of the A.P. Municipalities Act, 1965 (for short, the Act) enable the Municipal Council to layout public street and/or widen the existing public street. These provisions also enable the Municipal Council to acquire any land for opening and/or widening public street. Both the provisions contain the rules for payment of compensation for the property, that is to say, the lands or buildings which are acquired for the purpose of road widening. It is no doubt true that when Municipality initiates action under Section 172 of the Act, it is open to the Municipality to approach the owners and occupiers of the land before undertaking road widening programme so as to expedite such projects. It does not, however, enable the Municipality to compel the owners to give consent or compel the owners to part with their land without receiving any compensation for the land and buildings. Now that the Machilipantam Municipality has initiated action by inviting owners on the subject road, the Municipality shall have to follow the procedure contemplated under Section 172(2) or Section 174 of the Act. Unless and until such requirement is complied with, petitioners cannot be disturbed with their possession nor they can be denied right to enjoy the property.

The Writ Petition, with the above observations, is disposed of. No costs.

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(V.V.S.RAO, J)

8.9.2005

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Note:CC by 12.9.2005.

(B.O)

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